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Attorneys for Plaintiff
MICHAEL PALLAGROSI

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL PALLAGROSI, on behalf of
himself and all others similarly situated,

Plaintiffs,

vs.

THE GAP, INC.; GAP (APPAREL)
LLC; GAP INTERNATIONAL SALES,
INC.; BANANA REPUBLIC, LLC; and
BANANA REPUBLIC (APPAREL)
LLC,

Defendants.

Case No. 4:17-cv-05905-HSG

**CERTIFICATION OF STEPHEN
P. DENITTIS, ESQ. IN
RESPONSE TO ORDER TO
SHOW CAUSE**

I, Stephen P. DeNittis, make this certification under oath and say:

1. I am an attorney at law in good standing in the State of New Jersey and the Commonwealth of Pennsylvania. I am also admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Third Circuit, the United States District Court for the District of New Jersey, the Eastern and Middle Districts of Pennsylvania, and the Western District of Tennessee.

2. During my 21-year career as an attorney, all of my admissions have remained in good standing, and I have never been sanctioned, disbarred or reprimanded by any Court, nor by any ethics tribunal.

3. I am lead counsel for Plaintiff in this matter.

CERTIFICATION OF STEPHEN P.
DENITTIS, ESQ. IN RESPONSE TO ORDER
TO SHOW CAUSE
CASE NO. 4:17-CV-05905-HSG

1 4. In response to this Court's January 17, 2018 Order to Show Cause, I attest
2 as follows:

3 **Failure to Appear at the January 16, 2018 Case Management Conference**

4 5. I am admitted *pro hac vice* in a similar matter before this Court, involving
5 the same Defendants and same opposing counsel, *Munning v. The Gap, Inc, et al*,
6 Case No. 4:17-cv-5905. The parties have agreed informally to coordinate the
7 discovery in the *Munning* matter with the discovery in this case.

8 6. I erroneously believed that I had been admitted *pro hac vice* in this
9 matter as well, but I have not. Nor is any other attorney at my firm admitted in this
10 matter.

11 7. When the Court scheduled the January 16, 2018 case management
12 conference in this case several weeks ago, my firm's local counsel received the
13 scheduling notice and informed me thereof. I informed local counsel that I planned
14 to cover the conference.

15 8. At that time, I should have confirmed my *pro hac vice* admission in
16 this case, should have added the conference to my firm's calendar, and should have
17 made arrangements to have someone else call in to or attend the conference in
18 person if I were unable to do so for any reason.

19 9. I have a history of heart problems – I have been diagnosed with small
20 vessel disease and have received five stents over the past three years. During the
21 weekend prior to the case management conference, I began having significant chest
22 pains, which continued through Monday, January 15.

23 10. On the morning of January 16, I awoke with severe chest pains and my
24 left arm was entirely numb. I called my cardiologist's office and was instructed to
25 go immediately to the emergency room, which I did. I was admitted to the hospital
26 and underwent a stress test and cardiac catheterization.

27 11. While I was in recovery from those procedures, I received an email from
28 Defense counsel stating that she was at the case management conference and asking
if I planned to attend. At that point, I realized that the scheduled conference had
entirely slipped my mind – not only had I failed to appear at the conference, but I
also had failed to arrange for a substitute appearance or to apprise the Court of my
inability to attend.

12. There is no excuse for my conduct. I sincerely apologize to the Court, and I reiterate my sincere apologies to Defense counsel, with whom I have already spoken. I also have offered to pay for Defense counsel's airfare and time expended attending the case management conference.

Failure to File a Timely Opposition

13. Plaintiff's opposition to Defendants' motion to dismiss was due on January 11, 2018. On the morning of January 10, my office completed the opposition brief and forwarded it via email to local counsel to be filed.,

14. Unfortunately, the email address used by my office to send the brief to local counsel was changed, and local counsel never received the brief. Worse, my office never received any sort of undeliverable message, and so we were unaware that the brief had not been received by local counsel and had not been filed.

15. It was not until the evening of January 16, 2018, during a conversation with Defense counsel, that we discovered that Plaintiff's opposition brief was never filed.

16. On January 17, 2018, I re-sent the opposition brief to local counsel for filing. I also drafted an application for admission *pro hac vice* in this case and forwarded to local counsel for filing. I further held an emergency meeting with my office and implemented systems to ensure that these scheduling and filing failures will not happen again in the future.

17. I understand these failures on my part are unacceptable, and I apologize again for the inconveniences incurred by the Court and Defense counsel as a result of my actions. I thank the Court for permitting Plaintiff to file his brief in opposition to Defendants' motion to dismiss out of time, and I willingly consent to any extension required by Defendants in filing a reply in support of their motion.

I thank the Court for its understanding with respect to this matter.

Dated: January 28, 2018

By /s/ Stephen P. DeNittis
Stephen P. DeNittis

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ATTESTATION

I, Todd M. Friedman, am the registered ECF user whose username and password are being used to file this Certification In compliance with LR 5-1(i)(3), I hereby attest that the above-identified counsel concurred in this filing.

Dated: January 18, 2018

By /s/ Todd M. Friedman
Todd M. Friedman